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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

EXAMINER	
CHU, GABRIEL L	

ART UNIT	PAPER NUMBER
2114	

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07/24/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/628,769	MARISETTY ET AL.	
	Examiner	Art Unit	
	Gabriel L. Chu	2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 June 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *89-104* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *89-104* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 94, 100 objected to because of the following informalities:

2. Referring to claim 94, "routine to save a status" is understood to refer to "routine saves a status", or alternatively, "routine is to save a status". See below.

3. Referring to claim 100, as Applicant has not indicated that the meaning deviates from examiner's interpretation of "the processor detects the detected error", Examiner has removed the 112 rejection. However, grammatical error still remains. If Applicant prefers to use the infinitive, that is fine, as Attorney says, however that is not the problem. If Applicant prefers, this may alternatively be phrased, "wherein the processor is to detect the detected error." The key here is that what is known as an "auxiliary verb" is missing, rendering the claim not "fine".

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. **Claim 89 rejected under 35 U.S.C. 103(a) as being unpatentable over US 5740357 to Gardiner et al. in view of US 5781750 to Blomgren et al.** See previous action.

6. **Claims 90-92 rejected under 35 U.S.C. 103(a) as being unpatentable over Gardiner and Blomgren as applied to claim 89 above, and further in view of US 5594905 to Mital.** See previous action.

7. **Claims 93, 94 rejected under 35 U.S.C. 103(a) as being unpatentable over US 5740357 to Gardiner et al. in view of US 5781750 to Blomgren et al. and Official Notice.** See previous action.

8. Further referring to claim 93, although Gardiner does not specifically disclose a display coupled to the "processor", this is very well known in the art. Examiner takes official notice for a computing system comprising a monitor. A person having ordinary skill in the art at the time of the invention could have been motivated to include a monitor because it displays things so that a user may see them. Gardiner in particular discloses a need for indicating things to a user, from line 66 of column 4, "The error handler 40 returns and responds to the error detector 30 to indicate the success or failure of the recovery attempt (the recovery status). The attempted recovery must be finished before a final response is returned to the user. Hence, error handling is performed synchronously with the service requested by the client."

9. **Claims 95, 97 98 rejected under 35 U.S.C. 103(a) as being unpatentable over Gardiner and Blomgren and Official Notice as applied to claim 93, 94 above, and further in view of US 5594905 to Mital.** See previous action.

10. **Claim 96 rejected under 35 U.S.C. 103(a) as being unpatentable over Gardiner and Blomgren and Official Notice as applied to claim 94 above, and further in view of US 5787095 to Myers et al.** See previous action.

11. **Claim 99, 100 rejected under 35 U.S.C. 103(a) as being unpatentable over Gardiner, Blomgren, Official Notice, and Mital as applied to claim 98 above, and further in view of Official Notice.** See previous action.

12. **Claims 101, 102 rejected under 35 U.S.C. 103(a) as being unpatentable over Gardiner, Blomgren, and Mital.** See previous action.

13. **Claim 103, 104 rejected under 35 U.S.C. 103(a) as being unpatentable over Gardiner, Blomgren, and Mital as applied to claim 102 above, and further in view of US 5787095 to Myers et al.** See previous action.

Response to Arguments

14. Applicant's arguments filed 3 June 2009 have been fully considered but they are not persuasive.

15. Applicant argues (page 7) that Gardiner does not describe what the CPU comprises, however Gardiner merely indicates that a CPU may be one form which such a service element may take. Even so, by indicating that a CPU may be a service element, Gardiner is indicating that that CPU (if it is so interpreted to be a CPU) comprises the elements of the described service element, which contains elements of a fault/error handling/detecting hierarchy, as illustrated in, for example, figure 2. In figure 2, Applicant will note that element 14 is marked as the service element, and that that element includes handlers and a detector, and further, that the element communicates with other such elements both higher and lower.

Applicant should further note that whatever form such service element may take, it is also an element that "processes", rendering it a "processor".

16. Applicant argues (page 7) that neither Gardiner nor Blomgren describe "two different error correction types where one is hardware and the other is software" and instead "Gardiner describes multiple levels of recovery". Firstly, Examiner notes that Applicant does not claim "hardware," but "logic", which Applicant will recognize as broad indeed, encompassing hardware, but also, reasonably, software executed on the processor. As such, it need not be interpreted as "two different types". However, even if it is executed software, Applicant should recognize that such execution requires hardware, and thus would also qualify as a "hardware" error correction type.

Secondly, Examiner has shown in Gardiner such "logic" operating on a service element which, in combination with Blomgren, may be memory comprising executable code, i.e. software, communicating in a hierarchy, for example with a processor.

What Applicant describes as "mere" multiple levels of recovery, Examiner takes as an admission of the relevancy of the art to the claims, which merely, essentially, recovers at multiple levels.

17. Applicant argues (page 8) that neither Gardiner nor Blomgren describe a processor attempting to correct a detected error and that Gardiner shows an "external" "error detector..." Firstly, it is not clear where Applicant has determined that the service element's own detector is "external", but seeing as Applicant has placed it outside the quotes, Examiner takes this as an admission that this is an insertion on Applicant's part. Reading Gardiner, one or ordinary comprehension would come to the conclusion that each service element has its own detector and that each service element communicates with both lower and higher service elements. Perhaps it is in view of line 29 of column 6

of Gardiner that Applicant makes this insertion as to externality. In that portion of Gardiner, Gardiner discloses three scenarios, the first describing detection at the local level, the second describing an error report from a lower level, and the third describing a higher service element having to determine error of a lower level with a request/response exchange. Even so, it is still heavily emphasized that it is disclosed that an error may be detected **locally**.

Secondly, Gardiner expressly discloses, not merely suggests, that a service element attempts to correct an error, as was specifically cited by Examiner (see rejection). However, further, from line 32 of column 6 (with emphasis), "the error can be detected at the local level, in which case the error handler 40 will **attempt recovery** as described above."

18. Applicant disagrees (page 9) with the rationale put forth for the Official Notice. Examiner disagrees with Applicant's disagreement.

19. Applicant merely alleges (pages 9-10) the combination does not describe the limitations of claim 101.

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabriel L. Chu whose telephone number is (571) 272-3656. The examiner can normally be reached on weekdays between 8:30 AM and 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571) 272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gabriel L. Chu/
Primary Examiner
Art Unit 2114

gc